

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

CURTIS POWELS,

Plaintiff,

v.

No. 12cv0481 WPL/LAM

**TEXAS ROADHOUSE MANAGEMENT
CORP., STEVE LOPEZ and JAMIE GARCIA,**

Defendants.

**ORDER DENYING PLAINTIFF'S MOTION TO WITHDRAW MOTION
TO COMPEL [Doc. 38]**

THIS MATTER is before the Court on *Plaintiff's Motion to Withdraw His Motion to Compel Production of an Insurance Policy* [Doc. 38], filed September 13, 2012. Plaintiff fails to state whether this motion is opposed, which is in violation of Local Rule 7.1(a). *See* D.N.M. LR-Civ. 7.1(a) ("Movant must determine whether a motion is opposed, and a motion that omits recitation of a good-faith request for concurrence may be summarily denied."). Moreover, withdrawal of a document from consideration by the Court "requires consent of all other parties or approval of the Court." D.N.M. LR-Civ. 7.7. Because Defendants have asked for their attorney's fees and costs incurred by having to respond to Plaintiff's motion to compel (*see* Doc. 37), the Court finds that it would not be fair to Defendants to allow Plaintiff to simply withdraw his motion to compel absent Defendants' consent. The Court, therefore, will deny Plaintiff's motion to withdraw his motion to compel and will allow Plaintiff ten (10) days to file a reply to his motion to compel.

IT IS THEREFORE ORDERED that, for the reasons stated above, *Plaintiff's Motion to Withdraw His Motion to Compel Production of an Insurance Policy* [Doc. 38] is **DENIED**.

IT IS FURTHER ORDERED that Plaintiff may file a reply to his motion to compel [Doc. 33] **within ten (10) days of entry of this order.**

IT IS SO ORDERED.



LOURDES A. MARTÍNEZ
UNITED STATES MAGISTRATE JUDGE